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Attorneys for Plaintiff
FACEBOOK, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC., a Delaware
corporation,

Plaintiff,

v.

JEREMI FISHER; PHILIP POREMBSKI;
RYAN SHIMEALL; and JOHN DOES 1-
25, individuals; and CHOKO SYSTEMS
LLC; HARM, INC.; PP WEB SERVICES
LLC, iMEDIA ONLINE SERVICES LLC,
and JOHN DOES 26-50, corporations,

Defendants.

Case No. C 09-05842 JF

**NOTICE OF MOTION AND MOTION
FOR ADMINISTRATIVE RELIEF FOR
LEAVE TO FILE UNDER SEAL CERTAIN
PORTIONS OF DOCUMENTS FILED IN
CONNECTION WITH PLAINTIFF
FACEBOOK, INC.'S MOTION FOR
TEMPORARY RESTRAINING ORDER;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF SAME**

NOTICE OF MOTION AND MOTION FOR ADMINISTRATIVE RELIEF

TO: DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT pursuant to Local Rules 7-11 and 79-5(c), Plaintiff Facebook, Inc. ("Facebook") respectfully requests that the Court order the Clerk of the Court to file under seal certain portions of the following confidential documents Facebook is lodging with the Court on December 15, 2009:

1. Plaintiff Facebook, Inc.'s Memorandum of Points and Authorities in Support of Motion for Temporary Restraining Order;
2. Declaration of Facebook Employee in Support of Plaintiff's Motion for Temporary Restraining Order; and
3. Declaration of Joseph P. Cutler in Support of Plaintiff's Motion for Temporary Restraining Order;

Facebook seeks this motion for administrative relief on the grounds that the above-mentioned documents contain information relating to Facebook's confidential and proprietary network structure, defensive safety measures, methods for investigating a security breach, and the identity of Facebook personnel responsible for maintaining the security of the network and identifying perpetrators and other information that constitute Facebook's trade secrets. Facebook treats all such information as confidential and would be irreparably harmed if such trade secret and/or confidential information are made available to the public. Also, public release of this information could place the safety of Facebook's employees in jeopardy. Pursuant to Local Rule 79-5(c), Facebook will lodge with the clerk: (1) two copies of the unredacted documents, with the sealable portions highlighted in yellow, one of which is to be delivered to Chambers; and (2) a redacted version of the documents that the Clerk may file in the public record.

Dated: December 15, 2009

PERKINS COIE LLP

By: /s/
Brian Hennessy

Attorneys for Plaintiff Facebook, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 26(c) and Civil Local Rules 7-11 and 79-5(c), plaintiff Facebook, Inc. ("Facebook") respectfully makes this Administrative Request for an Order allowing Facebook to file under seal, certain portions of the following confidential documents, Facebook is lodging with the Court on December 16, 2009:

1. Plaintiff Facebook, Inc.'s Memorandum of Points and Authorities in Support of Motion for Temporary Restraining Order;
2. Declaration of Facebook Employee in Support of Plaintiff's Motion for Temporary Restraining Order; and
3. Declaration of Joseph P. Cutler in Support of Plaintiff's Motion for Temporary Restraining Order.

Good cause exists justifying the filing of portions of the above documents under seal because the requested relief is necessary and narrowly tailored to protect the confidentiality of Facebook's trade secrets and/or confidential competitive and business information, and to protect the security of the Facebook network and Facebook's employees. Accordingly, Facebook would be irreparably harmed if the identified information was made available to the public. Pursuant to Local Rule 79-5 this request is supported by the Declaration of Joseph P. Cutler and is accompanied by a proposed order. *See* Declaration of Joseph P. Cutler in Support of Notice of Motion and Motion for Administrative Relief to File Under Seal Certain Portions of Documents Filed in Connection with Plaintiff Facebook Inc.'s Motion for Temporary Restraining Order.

II. ARGUMENT

Upon a showing of good cause, a court may make any order that justice requires to protect a party, including an order "that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way." Fed. R. Civ. P. 26(c)(7). In particular, a court may deny access to the public where documents could "become a vehicle for improper purposes." *Hagestad v. Tragesser*, 49 F.3d 1430, 1433-34 (9th Cir. 1995).

1 Good cause exists to protect Facebook's security, trade secret and/or confidential business
2 and competitive Information. Facebook's request for relief is narrowly tailored and the
3 confidential information contained in these documents is highly susceptible to use for an
4 improper purpose. Facebook seeks only to seal the portions of these documents that would reveal
5 Facebook's confidential trade secrets regarding the structure of the Facebook network, Facebook's
6 defensive safety measures, its methods for investigating a security breach, and the identity of
7 Facebook personnel responsible for maintaining the security of the network and identifying
8 perpetrators. If this information is made public, it may be abused by malicious hackers and other
9 copycat spam-artists seeking to breach Facebook's security, or even by Facebook's competitors,
10 thus causing irreparable harm to Facebook and the integrity of its network. Additionally,
11 Facebook is concerned about the safety of its employees and wishes to protect the identity of its
12 personnel in charge of security.

13 **III. CONCLUSION**

14 For the reasons set forth above, good cause exists to file under seal the identified portions
15 of the above-referenced documents, which relate to Facebook's confidential, commercially
16 sensitive, proprietary trade secret information, including Facebook's carefully guarded security
17 information. Accordingly, Facebook respectfully requests that the Court grant its administrative
18 request in the form of the Proposed Order filed herewith.

19 Dated: December 15, 2009

PERKINS COIE LLP

20 By: /s/
21 Brian Hennessey

22 *Attorney for Plaintiff Facebook, Inc.*
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